

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>DERRICK FORMAN</b>	:	<b>CIVIL ACTION</b>
	:	
v.	:	<b>NO. 19-5300</b>
	:	
<b>MONTGOMERY COUNTY</b>	:	
<b>CORRECTIONAL FACILITY, <i>et al.</i></b>	:	

**ORDER**

**AND NOW**, this 7<sup>th</sup> day of February 2020, upon considering Defendants Montgomery County Correctional Facility's, Warden Algarin's, and Officer Yocum's partial Motion to dismiss (ECF Doc. No. 8), Plaintiff's Response (ECF Doc. No. 9), and for reasons in the accompanying Memorandum, it is **ORDERED** the partial Motion to dismiss (ECF Doc. No. 8) is **GRANTED**:

1. Plaintiff's civil rights claims against Montgomery County Correctional Facility are **DISMISSED with prejudice** as it is not a "person" under the civil rights laws;

2. Plaintiff's claims against the Warden and Officer in their official capacity are **DISMISSED without prejudice** to Plaintiff filing an amended Complaint on or before **February 18, 2020** consistent with controlling law under either a supervisory liability or personal involvement theory but not if the claims are duplicative of a claim against a municipal entity with potential supervisory liability;

3. Upon consent, Plaintiff's claims for punitive damages are **DISMISSED with prejudice**; and,

4. Absent an amended Complaint filed on or before February 18, 2020, Defendants shall file an Answer to the remaining allegations no later than **February 21, 2020**.

  
KEARNEY, J.